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Report of the Special Rapporteur on minority issues on her mission to Iraq

Note by the Secretariat

The Secretariat has the honour to transmit to the Human Rights Council the report of the Special Rapporteur on minority issues on her visit to Iraq from 27 February to 7 March 2016.

Minority ethnic and religious communities in Iraq, which have been an integral part of the population and cultural heritage of the country for millenniums, are facing an unprecedented crisis that threatens their continued existence in the country. Iraq is at a crossroads, and the actions of the Government now will determine the extent to which the country maintains its rich ethnic and religious diversity, or whether conflict and neglect of minority rights will contribute to depriving it of that diversity in the future. Seeking security and seeing few prospects for protection of their human rights in Iraq, many have left the country, resulting in a dramatic decrease in minority populations. Without urgent action, many thousands more may follow.

The genocidal terror campaign perpetrated by the so-called Islamic State in Iraq and the Levant (ISIL), also known as *Daesh*, has had a particular impact on regions with large minority populations, resulting in communities fleeing their homes and many thousands being killed or held captive, including women and children held in sexual slavery. Many remain captive and at risk of violence or death. Allegations of genocide against the Yazidi and possibly other ethnic and religious communities must be fully investigated. The Government and the international community must also act decisively and in accordance with their commitments under international law to protect civilians and to prosecute those suspected of such crimes.

The challenges include ensuring that vulnerable ethnic and religious groups can return to their historic homelands should they so desire, and providing long-term support to rebuild shattered lives and communities. The issues faced by minorities are long-standing

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and deeply entrenched in Iraqi society. The defeat of ISIL is only one important step among many needed to address the concerns of communities that are vulnerable to attack, subject to deeply entrenched discrimination and excluded from economic, political and social life. Trust in national authorities and hope for the future must be rebuilt on a foundation of consultation, participation and legal, policy and institutional frameworks for minority rights, which are currently absent.

Report of the Special Rapporteur on minority issues on her mission to Iraq*

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* Circulated in the language of submission and Arabic only.

I. Introduction

1. In accordance with the mandate under Human Rights Council resolution 25/5, the Special Rapporteur on minority issues, Rita Izsák-Ndiaye, visited Iraq from 27 February to 7 March 2016 at the invitation of the Government. During her visit, the Special Rapporteur travelled to Baghdad, Erbil and Dohuk governorates.

2. The Special Rapporteur sought to assess the situation of ethnic, religious and linguistic communities. She consulted widely with government representatives, including the Prime Minister, Haider al-Abadi, the Minister for Foreign Affairs, Ibraheem al Jafaari, the Prime Minister of the Kurdistan Region, Nechirvan Barzani, the Minister for Foreign Relations of the Kurdistan Region, Falah Mustafa, and other government leaders and senior politicians. She met with representatives of all religious departments at the Ministry of Endowments and Religious Affairs in the Kurdistan Region and the Chair of the Independent Board for Human Rights. She thanks the Government of Iraq and the Kurdistan Regional Government for their cooperation and willingness to engage constructively at the highest level.

3. The Special Rapporteur sincerely thanks the United Nations Assistance Mission for Iraq (UNAMI), the Office of the United Nations High Commissioner for Human Rights (OHCHR) and the United Nations agencies and entities, including the Office of the United Nations High Commissioner for Refugees (UNHCR), that supported her visit. She thanks the numerous national and international non-governmental organizations that provided information and met with her. She placed a high priority on speaking directly to ethnic and religious community leaders and representatives, including those of internally displaced persons, to hear their views and concerns, and she thanks them for their considerable contribution to her visit.

4. The term "minority" is not favoured by the Government or many community leaders and civil society organizations, since it is perceived as having negative connotations for their status in Iraqi society and equal standing vis-à-vis other groups. Many prefer to be identified as "ethnic and religious communities" or "components" of Iraqi society. The Special Rapporteur acknowledges and respects these preferences, while noting that all the provisions of the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities apply to those belonging to such groups in Iraq.

5. The Special Rapporteur's objective was to understand the historical, current and ongoing challenges facing diverse national, ethnic, religious and linguistic groups. She sought to understand current legal, policy and programme measures as well as to identify what measures should be taken by the Government and other national and international stakeholders to ensure their protection and to guarantee minority rights as contained in the Declaration.

II. Context of ethnic and religious minority communities

6. Referred to as the "cradle of civilization", Iraq has been a country of great diversity and a unique and rich mosaic of ethnic, religious, cultural and linguistic communities since ancient times. While the three largest populations are Shia and Sunni Arabs and Kurds, smaller communities include the Armenians, Baha'is, Chaldo-Assyrians, Circassians, Faili

Kurds, Jews, Kaka'e, Palestinians, Badawiyin (including the so-called Bidoon[1]), Sabea-Mandeans, Shabaks, Turkmen, Yazidis, Zoroastrians and Roma. Some groups have historically lived throughout Iraq, while minority groups, including Christians, Shabaks, Yazidis and Turkmen, live primarily in northern Iraq and areas south of and bordering the Kurdistan region of Iraq, including the Ninewa plains region. Large Christian communities have historically also been found in Baghdad and Basra.

7. Regions with large or predominantly minority communities have been heavily affected by the insurgency of the so-called Islamic State in Iraq and the Levant (ISIL), also known as *Daesh*. ISIL captured Mosul, the second-largest city in Iraq and historically home to many minorities, in June 2014 and took control of large swathes of territory in the governorates of Ninewa, Salah al-Din, Diyala, Kirkuk and Anbar. While all communities have suffered under the criminal brutality of ISIL, minorities have been particularly targeted as a consequence of its extreme doctrine and interpretation of Islam and its view of religious minorities as infidels or heretics. Hundreds of thousands of members of minority groups have been displaced or killed, and historic cities have been destroyed along with the cultural and religious sites that they were home to.

8. In their joint reports on the protection of civilians in the armed conflict in Iraq, OHCHR and UNAMI have documented violence against ethnic and religious groups. ISIL imposed on Christians and Sabea-Mandeans the choice of converting to Islam, paying *jezyah* (protection money), expulsion, or death; and for Yazidi, Kaka'e and other faith communities, conversion or death. According to a 2015 report, "ISIL continues to target members of different ethnic and religious communities, intentionally depriving them of their fundamental rights and subjecting them to a range of abuses under international human rights and humanitarian law. These acts appear to form part of a systematic and widespread policy that aims to suppress, permanently expel, or destroy many of these communities within ISIL areas of control."[2] The evidence and information gathered by UNAMI and OHCHR concerning gross abuses of human rights and violations of international humanitarian law support the conclusion that ISIL committed crimes in a systematic and widespread manner, targeting and seeking to destroy Yazidis in whole or in part. UNAMI-OHCHR noted that crimes committed by ISIL may amount to war crimes, crimes against humanity and, possibly, genocide. This remains subject to the determination of an independent and competent court.[3]

9. While the actions of ISIL constitute the most recent and brutal assault upon the existence of minorities, many diverse ethnic and religious groups have suffered from decades of marginalization, discrimination, lack of access to basic services and insecurity. It was emphasized by community representatives that their problems did not begin with ISIL and would not end with its defeat and return to their homes. Many described a reality of widespread and long-standing anti-minority sentiment that is deeply entrenched and would remain to be confronted in the post-ISIL era. The Special Rapporteur heard testimonies from persons who had lived peacefully alongside neighbours of different religions and who found themselves attacked by them or denounced to ISIL.

10. Under the Baathist regime of Saddam Hussein, discrimination and a campaign of persecution of ethnic and religious groups, including the Kurds, was pursued. The Anfal campaign waged from 1986 to 1989 targeted Kurds and other groups, resulting in the

[1] Bidoon is Arabic for "without", meaning people who are without identity documents. The term is applied to pastoralists who live in the desert areas between Iraq, Kuwait and Saudi Arabia. Many of them may identify as Badawiyin.

[2] See www.ohchr.org/Documents/Countries/IQ/UNAMIReport1May31October2015.pdf.

[3] Conclusion by UNAMI and OHCHR as well as of the OHCHR fact-finding mission (A/HRC/28/18).

destruction of hundreds of villages and the displacement, killing and disappearance of many thousands. The campaign included the chemical attack on Halabja on 16 March 1988, resulting in the deaths of at least 5,000 people, with a further 7,000 people injured or suffering long-term illness. Under an "Arabization" programme, minorities were expelled from their homes and regions. Some families were reportedly expelled from the country, while others were executed. Minority leaders highlighted that thousands remained missing. A denaturalization process deprived many of Iraqi citizenship, and some disputes over property and funds belonging to minority families have yet to be resolved. Despite steps taken by Governments following the overthrow of Saddam Hussein, some of the atrocities that were committed have still not been addressed owing to a lack of effective transitional justice measures and legal redress for the affected communities.

11. In addition, following the invasion of the country in 2003, led by the United States of America resulting in the overthrow of Saddam Hussein, targeted attacks against ethnic and religious communities again escalated and their position remained precarious, or even worsened, as sectarian violence dramatically increased. In 2006-2007, the violence peaked and led to the deaths of tens of thousands, while many thousands fled the country. According to UNHCR, some 30 per cent of the refugees fleeing Iraq belonged to ethnic or religious communities. The extent of the violence against them has perhaps overshadowed ongoing issues of discrimination, marginalization and exclusion that have left those communities among the poorest in Iraq.

12. Displaced from their homes and regions, sometimes multiple times, some communities now feel that they have little option but to look for a brighter future outside Iraq. Several community representatives stated that "there is no future for minorities in this country". While official figures are lacking, it is evident from national and international sources that the decline in numbers of some ethnic and religious communities since 2003 is dramatic. The Christian population has reportedly declined from 1.4 million people to just 300,000. If such trends continue, it is realistic to predict further significant declines and, possibly, the complete disappearance of some smaller communities from Iraq. Anecdotal evidence, including from interviews conducted in camps for internally displaced Yazidis, suggests that young people in particular are leaving the country in large numbers or may be planning to leave.

13. The Special Rapporteur notes that Shia and Sunni Arabs in some locations also find themselves under threat, displaced, or facing violations of their human rights; these communities must also be provided with protection. While they constitute the majority population groups at the national level, in some regions of Iraq, including the Kurdistan region, they are minorities, who are entitled to protection of their minority rights. ISIL members are predominantly Sunni Muslims; however, Sunnis who do not follow the group's ideology and extreme doctrine and oppose their crimes and human rights violations are equally at risk, and have been displaced or killed. Nevertheless, they are frequently viewed with suspicion, including by Shia and Kurdish authorities, and have faced discrimination, violence and barriers to their access to safety as well as to their freedom of movement.

14. It is of the upmost importance that a mapping exercise be conducted that would give a better understanding of the demographic composition of Iraq and the trends of displacement and migration, and to have a proper assessment of the socioeconomic conditions of the various ethnic and religious groups. This will enable targeted, necessary humanitarian, human rights and development programmes to be designed. Such mapping should be carried out with the involvement of minority community members.

III. Legal, institutional and policy framework

15. Iraq is a party to key international human rights conventions relevant to non-discrimination and the rights of minorities, including the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights and the International Convention on the Elimination of All Forms of Racial Discrimination.

16. The 2005 Constitution, the pre-eminent and supreme law in Iraq, recognizes past crimes against minorities and contains anti-discrimination provisions. Article 14 states that Iraqis are equal before the law, without discrimination based on gender, race, ethnicity, nationality, origin, colour, religion, sect, belief or opinion, or economic or social status. Article 41 states that Iraqis are free in their commitment to their personal status according to their religions, sects, beliefs, or choices. Articles 42 and 43 guarantee freedom of thought, conscience and belief and that the followers of all religions are free to practise their religion and to manage their religious endowments (*awkaf*), affairs and institutions. Article 7 prohibits ethnic or religious hatred, including any entity or programme that adopts, incites, facilitates, glorifies, promotes, or justifies racism or terrorism or accusations of being an infidel (*takfir*) or ethnic cleansing.

17. Several minority leaders nevertheless highlighted that article 2 of the Constitution establishes Islam as a foundational source of law and that the Constitution prohibits the enactment of laws that contradict Islam. They stressed their concerns regarding widespread discrimination on the ground of religion and called for a more secular constitution and legal framework to clearly separate religion from politics, as there was potential for conflict between guarantees of the religious rights of minorities and the provisions of Islamic law.

18. Two draft laws under consideration by the Government are directly relevant to minority rights. A draft diversity protection and anti-discrimination bill has been endorsed by many Members of Parliament and advisers to the Speaker, Salim al-Jubouri. This bill was before the Human Rights Committee of the Council of Representatives at the time of the visit. In October 2016, it was submitted for first reading through the Speaker's Office. A complementary law, the draft law on the protection of religious and ethnic minority group rights, covers a range of issues related to the promotion, respect and protection of diverse ethnic and religious communities. Some groups have, however, expressed concern at the lack of consultation with them regarding these draft laws and the Special Rapporteur urges appropriate and meaningful mechanisms of consultation prior to their adoption.

19. Minority representatives highlighted article 125 of the Constitution guaranteeing the administrative, political, cultural and educational rights of the various nationalities, such as Turkmen, Chaldeans, Assyrians and all other constituents, which "shall be regulated by law". They noted, however, that such legal provisions did not exist and urged that they be adopted as a matter of urgency. Minority communities consider this step to be essential to legally protect them as valued and equal components of society.

20. Currently, there is no dedicated national institution or ministry with appropriate responsibilities and powers, funding and resources to help formulate policy and programme measures to address minority issues. Minority representatives called for such a body to be created and to have an interministerial coordination role, in recognition of the need for mainstreaming minority issues across policy areas. It should be in a position not only to advise and formulate necessary legislative changes but also to map the needs of minorities, monitor their situation, and serve as a bridge and trust-building platform between minority communities and the Government as well as other relevant bodies, including national human rights institutions and civil society organizations.

21. Minority representatives consistently stated that the National Identity Card Law adopted in October 2015 had caused alarm and consternation among communities owing to

its discriminatory provisions. Article 26 states that a non-Muslim may convert (while Muslims are prohibited from conversion) and that minors are legally considered as Muslim following the conversion of either parent to Islam. According to the law, any child born in a marriage between a Muslim and a non-Muslim shall take on the Muslim religion. The Law was reportedly intended to facilitate administrative formalities with governmental institutions; however, the discriminatory provisions are unrelated to this objective and discriminate against non-Muslims. Minorities consider this law to constitute a threat to their existence in Iraq and have called for its reform or repeal on the grounds of its discriminatory impact and incompatibility with constitutional guarantees of freedom of religion, thought, conscience and belief.

IV. Minorities in the Kurdistan region of Iraq

22. The Special Rapporteur travelled to the Kurdistan region of Iraq, which has been greatly affected by the rise of ISIL and the conflict on its borders. Its population has consequently increased dramatically owing to the influx of internally displaced persons from conflict-affected regions, including the Ninewa plains. She commends the Kurdistan Regional Government for supporting and providing a safe haven for displaced communities. The regional authorities emphasized their commitments to the protection of vulnerable groups while noting that its resources were stretched thin and its capacity to accommodate or support more internally displaced persons was severely limited. This may have serious implications in the light of the government offensive to retake Mosul and surrounding areas, ongoing at the time of drafting, which may lead to mass displacement, much of which may be towards the Kurdistan region.

23. Authorities noted the generally good relations between different ethnic and religious communities in the region and that few tensions had historically existed between communities, owing partly to a shared history of oppression under the former regime, which had destroyed Kurdish, Christian and some Muslim villages. Members of those ethnic and religious communities who were long-term residents of the region expressed satisfaction at minority rights protection, including their right to use their mother-tongue languages in education and a degree of political representation, and stated that they had good relations with the majority Kurdish community.

24. The drafting of a new Kurdistan Regional Constitution was initiated in 2011 and had not been finalized at the time of the visit. Prime Minister Barzani informed the Special Rapporteur that minority rights would be given specific constitutional protection and that consultation would take place with all groups. The authorities indicated that they were favourable to consideration of limited autonomous areas for large minorities, including Christians and Yazidi, where appropriate. Another positive step has been to recognize and allow representation within the Kurdistan Region Ministry for Endowments and Religious Affairs of smaller ethnic and religious groups, including Jews, Zoroastrians, Kaka'e and Baha'is.

25. The Kurdistan Parliament passed the Law on Protection of the Right of Components (Law No. 5) in 2015. Broadly in line with the provisions of the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, it recognizes various ethnic and religious groups; guarantees equality; prohibits all forms of discrimination; and includes the right to political, cultural, social and economic participation and the right to education in mother-tongue languages. It prohibits demographic change of ethnic and religious communities. Although it is a positive development, the law lacks provisions that criminalize hate crimes and for a mechanism or body that would ensure implementation of the rights specifically protected by the Law.

26. Some communities, notably some Sunni Muslims, who constitute a minority in the region and who have also been deeply affected and displaced by ISIL, do not enjoy the same freedoms as other groups, including freedom of movement outside of internally displaced person camps and to urban areas. The Kurdistan Regional Government cites security grounds for limiting the movement of some groups who may be suspected of membership of ISIL and for conducting screening and detentions. Some displaced Sunni groups have allegedly been held between ISIL and Peshmerga forces and refused access to safety by the Kurdistan authorities. In 2016, in Ninewa Governorate, more than 520 people, including an estimated 250 children, were stranded for months between military front lines east of Sinjar mountain, unable to access food, water, shelter and medical assistance.[4] The Kurdistan authorities allowed them to move to safety only after six months.

27. The Kurdistan Regional Government, through the offensives of its Peshmerga forces, has gained extensive territories in the anti-ISIL campaign, including de facto control over parts of Kirkuk and its oil fields, which it considers to be part of the Kurdistan region. Some of these "disputed areas" are historically the homes of minority ethnic and religious communities, including Sinjar (Yazidis), Talafar (Turkmen) and the Ninewa plains (Christians, Shabaks and other minorities) and are contested by the Kurdistan Regional Government and the Federal Government. Minorities seek assurances for their return to, and increased autonomy over, these territories.

V. Challenges facing ethnic and religious communities

28. In this section, following comments by ethnic and religious community leaders that their voices and issues are rarely heard, the Special Rapporteur provides brief details about the situation of the ethnic and religious communities that she consulted. They include comments made by community representatives in meetings with her and information and figures that may not have been independently verified.

Baha'is

29. The number of members of the Baha'i faith remains unclear, owing to a lack of official data and factors including fear of publicly expressing their identity because of historic and widespread discrimination. They are thought to number fewer than 2,000 throughout Iraq. Many do not openly practise their faith owing to continuing discrimination and the legacy of past practices against them. The Baha'i were particularly oppressed by the Baath party regime from the early 1970s, when the religion was banned, adherents were forbidden from listing their religion in civil records, Baha'i property was confiscated and members of the community ultimately faced prison or execution.

30. Regulation 358 of 1975 prohibited the issuance of national identity cards to Baha'is. They were consequently denied registration of marriages or births, and thus were deprived of the right to have a passport and a job, enter university, and buy and sell homes and property. Baha'is continue to be denied full recognition in the Constitution of Iraq or national law. In April 2008, the Iraqi Ministry of Interior revoked the 1975 regulation; however, Baha'is continue to report difficulties in changing their identity cards to indicate their religion. Many reportedly still have "Muslim" on their identification documents.

[4] See www.humanitarianresponse.info/en/system/files/documents/files/hc_statement_on_civilians_trapped_in_iraq_and_in_desparate_need_of_humanitarian_assistance_february_2016.pdf.

Christians

31. The Christian communities in Iraq consist of Armenian Catholics and Orthodox Christians, members of the Assyrian Church of the East, Assyrian Orthodox Christians, Chaldean Catholics, Evangelicals, other Protestants, Syriac Catholics and Orthodox Christians, and other distinct religious groups that fall within the category of "Christian". Christian communities have historically been targeted because of their faith and their perceived ties with the West.[5] Following the 2003 invasion, attacks against Christian communities led to an exodus of Christians from the country. Christian representatives stated that the population had declined dramatically, from up to 1.4 million people prior to 2003 to only some 350,000 by 2014.

32. The population is thought to have declined further since mid-2014 with the rise of ISIL in areas of Christian populations, including the Ninewa plains. As places such as Mosul fell to ISIL, thousands of Christians fled. Those who remained or were unable to flee faced demands for the payment of protection money while others faced forced conversion or execution if they failed to comply with demands. Christian property was marked with an Arabic "N" (for *Nusairi*, the word used in the Koran to refer to Christians) and was later seized, and Christians were given an ultimatum to leave the city by 19 July 2014 or face execution.

33. While the Government emphasized the generally good relations between those of different faith communities, some Christian representatives noted their experiences of anti-Christian incidents and sentiments. A Christian priest from Mosul stated: "After 2005 I heard people say 'don't buy the properties of the minorities because they will be free later'. People are happy about what has happened to the Christians in Ninewa and Mosul." One Christian representative alleged receiving death threats and demands for protection money in Mosul even before the fall of the city.

Kaka'e

34. The Kaka'e are ethnically associated with the Kurds while maintaining a distinct religious identity. Representatives stated that they numbered some 200,000 people scattered throughout different regions, with most in Iraqi Kurdistan. They stated that they lacked political representation in both the Iraqi and the Kurdistan Parliaments. They were not referred to in the Iraqi Constitution or the Kurdistan Regional Constitution. However, Kurdistan Law No. 5 of 2015 protecting the rights of groups recognized the Kaka'e as a religious group. Representatives stated that Kaka'e had suffered historic persecution, including under the Saddam Hussein regime, with lands and villages confiscated and given to the Arab populations. People had to relocate to the south of Iraq, beginning to move back to their former regions only after the fall of Saddam Hussein.

35. Community representatives stated that some 300 Kaka'e had been killed by ISIL in Mosul and other areas because of their religious identity and that a large area normally occupied by Kaka'e was under the control of ISIL. All Kaka'e who formerly lived in Mosul and in the Ninewa plains had reportedly become internally displaced persons in Kurdistan. In March 2016, local sources reported that ISIL had made new threats to "pursue and kill" Kaka'e in northern Iraq.[6] Leaders stated that 65 of their villages had been destroyed and that Kaka'e internally displaced persons were scattered in different locations. One representative stated that the Kaka'e faced challenges to their identity in Iraq, with other communities "trying to make Kaka'e Shia".

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[5] Minority Rights Group International, *From Crisis to Catastrophe: The Situation of Minorities in Iraq*, 2014.

[6] See http://aranews.net/2016/03/isis-threatens-eliminate-kakai-religious-minority-iraq/.

Shabaks

36. The Shabak largely live in the Ninewa plains region and are thought to number between 200,000 and 500,000. While recognized as a distinct ethnic group in Iraq since 1952, Kurdish authorities consider them to be of Kurdish ethnicity. Representatives described a history of violations and atrocities under different regimes, most recently ISIL since 2014. Leaders stated that some 1,500 Shabaks had been killed between 2004 and 2014. According to non-governmental organizations, targeted violence against the community has continued since 2014. On 23 April 2014, a car bomb exploded in the Shabak village of Baybukh in Ninewa, killing 13 people and injuring 24 others. On 6 June 2014, at least 13 Shabaks were killed and more than 40 wounded when two car bombs were set off in Tahrawa village, near Mosul.[7]

37. Shabak properties in Mosul were marked with an Arabic "R" to signify "*Rafida*", a term ISIL used to designate Shia Muslims and others who have "rejected" its interpretation of Islam. Shabaks who refused to comply with ISIL orders were reportedly executed. By August 2014, an estimated 60 Shabak villages were under ISIL control, with reports of massacres and kidnappings of Shabak civilians. Leaders stated that 7,000 Shabak internally displaced families had fled Mosul following its fall. They expressed frustration that little attention was being paid to the suffering of the Shabaks. They stated that "random bombardment" against ISIL had left little to return to once their areas were liberated. They called for a separate autonomous area, and noted concerns that after the liberation of Mosul their situation might be even harsher. One representative of the Shabak stated: "As a Shabak, I don't feel like I am part of Iraq".

Sabea-Mandeans

38. The Sabea-Mandeans are one of the smallest religious communities in Iraq, with estimates suggesting fewer than 5,000 members; their language, culture and religion are thought to be at risk of extinction in Iraq. Some reports suggest that since the outbreak of violence in 2003, the majority of Sabea-Mandeans have left the country while an unspecified number have been killed. They have faced violence by both Shia and Sunni Islamic groups and continue to be actively targeted. Numerous attacks have taken place against community members, their property and places of worship, including targeted killings of individuals.

39. Sabea-Mandeans have fled ISIL-controlled areas and became internally displaced, since they are not considered by ISIL to be "People of the Book" and therefore do not have the option of paying protection money like the Christians. They fear that remaining in ISIL-controlled areas will mean either forced conversion or death. Many are thought to have left the country.

Turkmen

40. Turkmen constitute the third-largest ethnic group in Iraq, after Arabs and Kurds, with community representatives claiming a population of up to 2 million. They are comprised of both Sunni and Shia communities. They have historically lived in the north of Iraq, including in Tal Afar, Mosul, Erbil, Diyala and Kirkuk. Turkmen claim to have historically faced violence and intimidation from all sides, including the central Government, the Kurdistan Regional Government and Sunni and Shia militias. They noted historic denial of their cultural, linguistic and political rights and expressed fear for the future and the erosion of Turkmen culture and traditions.

[7] See http://minorityrights.org/minorities/shabak/.

41. Leaders stated that their areas were under threat from ISIL and claimed that they had not been adequately protected by Iraqi or Kurdistan authorities. Turkmen villages had been taken over, including in the Turkmen-majority area of Tal Afar in Ninewa Governorate. Turkmen had been killed and tens of thousands forced to flee their areas. Many Shia Turkmen had fled to southern governorates, including Najaf and Karbala. Sunni Turkmen were reportedly held at checkpoints as they sought safety in Erbil and other locations.

42. The majority Shia Turkmen town of Amerli in Salah al-Din Governorate was subject to siege by ISIL from 15 June until 31 August 2015, with frequent rocket attacks and attempts to take over the town. Little humanitarian assistance reached the community, which was left with little water, food, fuel or medical supplies. Dozens of civilians died before humanitarian aid reached the town. One leader alleged that Turkmen received less humanitarian assistance than had been provided to other groups and that rapes, killings and other violations had gone unaddressed and underreported. Community representatives expressed frustration because, although they frequently met United Nations representatives, nothing had changed and they were rarely mentioned in reports along with other minorities.

Yazidis

43. The vast majority of Yazidis, one of Iraq's oldest minorities thought to number up to 700,000 people, were concentrated in northern Iraq around the town of Sinjar. Leaders recalled that the community had suffered a history of persecution owing to perceptions of their faith, with numerous episodes of mass killing, including targeted attacks during sectarian violence following the 2003 invasion. They had suffered particularly when their regions were overrun by ISIL beginning in August 2014. Community leaders expressed frustration at the lack of action, support and protection by the Government and the international community since the attacks. "We lost our land, our women, our people. We don't see a bright future here," stated one. They said that 400,000 Yazidis had been displaced and were "trying to survive under the threat of extinction".

44. In August 2016, UNAMI-OHCHR reported unverified estimates that between 2,000 and 5,500 Yazidis had been killed by ISIL since 3 August 2014;[8] 6,396 Yazidis were reportedly abducted on or after 3 August 2014 (3,537 women and girls and 2,859 men and boys). By mid-May 2016, 2,587 Yazidi had reportedly managed to escape captivity (934 women, 325 men, 658 girls and 670 boys), while some 3,799 remained in captivity (1,935 women and 1,864 men). Tens of thousands of Yazidis continue to live in internally displaced person camps and other temporary shelters in the Kurdistan region of Iraq, including in the Khanke internally displaced person camps, which the Special Rapporteur visited. Some expressed their feeling that they had been abandoned.

45. Yazidis in internally displaced person camps in Dohuk described their distressing experiences of escaping from Sinjar in August 2014 as ISIL overran their region. They called for greater international action to free the captured women as well as national and international recognition that genocide had been committed against them (see below). Leaders criticized the Government for failing to denounce the atrocities and the Kurdish authorities for failing to protect them when they came under attack from ISIL. They highlighted the complete destruction by shelling, bombardments and street fighting of liberated Yazidi areas and expressed the view that in some cases the destruction could have been avoided.

46. Some representatives claimed that 100-200 Yazidis were leaving Iraq daily, with 100,000 having already left. Some spoke of having received no information about those who had left and fearing "the worst". Many had little hope for the future or for a return to

[8] See www.ohchr.org/Documents/Countries/IQ/UNAMIReport12Aug2016_en.pdf.

normal life in the Ninewa plains and Sinjar. One person stated: "80 per cent want to go abroad." Others voiced their desire for the community to return to their homes, while noting that a massive rebuilding effort was required. They stressed the importance of political participation and the need to ensure that Yazidis were represented and had guaranteed seats in the Iraqi Parliament and the Kurdistan Regional Government to ensure that they had a say in national policy and in decisions that affected them. Others called for self-rule, the establishment of a Sinjar governorate and an international protection force.

Zoroastrians

47. Zoroastrian representatives noted that they had coexisted peacefully with other ethnic and religious communities in the Kurdistan region of Iraq throughout their history. They highlighted their view that smaller ethnic and religious communities should be explicitly referenced and protected in the Constitution and the laws on the rights of minorities. They welcomed the fact that they had one political representative in the Kurdistan Regional Government. They described a smear campaign against their religion and stated that they had to practise their faith in secret. They noted that Zoroastrian archaeological sites had been destroyed.

Other ethnic groups

48. The Special Rapporteur learned about other ethnic or religious communities whose situation and issues are largely underreported owing to their numbers, their dispersal within the country and their lack of representation within civil society and human rights advocacy groups. They include the Badawiyin, including the Bidoon, Black Iraqis and Roma. She was disturbed by the lack of information about their circumstances. According to Minority Rights Group International,[9] Black Iraqis, who, community leaders suggest, may number from 1.5 to 2 million people (a figure disputed by the Government) located mainly in southern Iraq, frequently face systematic discrimination and marginalization in all aspects of life and are continually referred to as "slaves". Communities often referred to as "Roma" or as "Kawliyah"[10] are thought by some to number up to 200,000, living mostly in southern Iraq. They also reportedly face widespread discrimination and ostracism and suffer extreme poverty. The Special Rapporteur urges that greater attention be paid to the situations of these and other small communities, who may be particularly vulnerable, and that greater efforts be made to consult them and address their issues on an equal basis with other groups. The Government emphasized that there is no discrimination on the grounds of ethnicity or colour against members of such groups, who are equal in rights, opportunities and freedoms as citizens of Iraq.

A. Impact of internal displacement

49. At the time of the visit, some 3.3 million people were estimated to be internally displaced across Iraq.[11] Ethnic and religious communities have been disproportionately affected by internal displacement. Many vulnerable populations have sought refuge in the relative safety of the Kurdistan region and the border areas while others have travelled to the southern provinces or to Baghdad. Despite finding relative safety, many months after they fled, the situation for most internally displaced persons remains one of dependency on humanitarian aid, with only basic shelter and service provision. While some find temporary

[9] *From Crisis to Catastrophe*.

[10] While the connection to European Roma is not certain, the term "Kawliyah" has pejorative connotations in Iraq.

[11] International Organization for Migration, Displacement Tracking Matrix 46, May 2016.

work, employment opportunities are few. Internally displaced persons called for better service provision in camps and other locations, improved shelter and education facilities, and medical and more psychosocial support for those suffering trauma. One Yazidi stated: "We will lose a generation because of the lack of education."

50. While many have been granted free access to areas of safety such as the Kurdistan region, others have experienced restrictions on their freedom of movement and ability to access safety, often on the basis of their identity. Sunni internally displaced persons, who constitute a minority in some regions, including the Kurdistan region, have had particular difficulties owing to perceptions that they pose a security threat. Some community members have reportedly been detained on security grounds for long periods without trial, leading to family break-up.

51. While the Government's strong preference is for internally displaced persons to return to their places of origin, one interviewee stated: "We should decide our destinations and our fate. How can I live in my own place with people who think of me as an infidel?" The right of internally displaced persons to freely decide whether they wish to return must be respected, and they must be fully consulted. It was evident from interviews in internally displaced person camps that many no longer wish to return, or will do so only with guarantees of protection. Surveys conducted by the Global Protection Cluster and UNHCR in 2015 revealed that in central and southern Iraq only some 42 per cent of internally displaced persons intended to return to their area of origin, while some 35 per cent had not made a decision. When all governorates, including the Kurdistan region, were analysed collectively, the number of those intending to return dropped to only 22 per cent.[12]

52. In internally displaced person camps for Yazidi in the Dohuk region, non-governmental organizations noted that many young people were deciding to leave the country rather than stay in camps or return to devastated towns. For some, the trauma of their experiences made return difficult. Others felt that the destruction of their homes and the symbols of their identity in liberated cities such as Sinjar left them little to return to. For those who do not wish to return, measures must be taken to quickly move them from camps or temporary shelter into appropriate housing and to initiate livelihood projects as well as to ensure their religious and cultural rights. There is a need to establish durable solutions for internally displaced communities which, where return is not possible or desired, should include local integration or resettlement elsewhere in the country.

53. In view of the displacement crisis and its disproportionate impact on minorities, the Special Rapporteur also supports the adoption at the earliest opportunity of a law on internally displaced persons. It should explicitly recognize the rights of all ethnic and religious groups to equal protection and to durable solutions. Minorities also highlighted the need for a comprehensive national security strategy to be adopted, followed by security sector reform, to ensure long-term political and social stability in the country.

54. The situation of minority ethnic and religious communities displaced by conflict and violence prior to the rise of ISIL must not be forgotten or neglected. They include thousands displaced by Saddam Hussein under the "Arabization" campaign. The Internal Displacement Monitoring Centre notes that despite some government initiatives, few of those affected by long periods of displacement had sought assistance owing to factors including lack of the required documents, inability to afford fees and fear of retribution. It notes that reliable information on the population of persons who have suffered a protracted

[12] Global Protection Cluster and UNHCR, Iraq Internally Displaced Persons: Protection Monitoring Dashboard — Center and South, May-December 2015.

period of internal displacement in Iraq is scarce, and that monitoring is complicated by the fact that many are thought to have been displaced multiple times.[13]

B. Violations against minority women and girls

55. The Special Rapporteur met with numerous Yazidi women who had been kidnapped by ISIL when trying to escape from Sinjar, who provided harrowing testimonies. The women, including some very young women and children, described their capture and treatment by ISIL fighters. Some described being given to fighters who would subsequently sell them or offer them as "gifts" to other fighters. One described being raped and tortured before her escape. Some said that they were given drugs before being raped. "Everyone was trying to rape us," stated one woman. Some described being coerced to convert to Islam with the promise that they would not be hurt. "They put guns at our heads and told us that they would take our children away", stated one captured woman.

56. Women were bought and sold like slaves before being taken to other locations in Iraq and the Syrian Arab Republic. Their possessions, including telephones, were taken away from them. One woman stated: "They took our money, phones, gold and our daughters." Some women embroidered their telephone numbers on scraps of cloth in case they had the opportunity to call family members. Others showed crude tattoos that they had made on their arms stating the names of their family members so that if they were killed their bodies could be identified. One 9-year-old girl was disguised as a boy by her mother to prevent her from being raped. "There is nothing left that they haven't done to us," stated one woman. Everyone called for greater support, including psychosocial support, to be provided urgently.

57. Some women described their escape via "smugglers" who were paid large sums to facilitate their freedom, while others found opportunities to slip away from their captives on their own. Yazidi women who had escaped or been released by ISIL shared stories of starvation, humiliation, rape and sexual slavery that are deeply shocking. Captured women and girls are now being sold back and released by ISIL after large sums are paid to mediators and smugglers. At least 3,200 Yazidi and other women and children are reportedly still being held by ISIL,[14] and everything possible must be done to secure their release. Community leaders stated that they lacked funds to buy their freedom and expressed concerns regarding proposed military campaigns and their impact on the women and children who remained captive. One Yazidi leader stated: "There has been no action to save our girls. Why has the international community decided not to help the Yazidi people?"

58. Women described the trauma of their experiences and complained that the Government had not provided psychosocial care. Asked about their future, they commonly said, "We want to go somewhere safe." They expressed frustration that international visitors had come but that "nothing positive" had happened for them. One woman stated: "There is no work, nothing to live on. We were captives there, and we are captives here." Some added that, despite their traumatic experiences, they lived outside internally displaced person camps and did not receive humanitarian assistance. The trauma experienced by families and communities whose loved ones were or remain captives must also be

[13] See www.internal-displacement.org/middle-east-and-north-africa/iraq/2015/iraq-idps-caught-between-a-rock-and-a-hard-place-as-displacement-crisis-deepens.

[14] "They came to destroy": ISIS crimes against the Yazidis". Available from www.ohchr.org/EN/HRBodies/HRC/IoI/Syria/Pages/Documentation.aspx.

recognized and addressed to ensure that, in view of religious and cultural factors, women returning to their families and communities do not face stigmatization.

C. Destruction of cultural heritage

59. "Minorities fear that they will be wiped off the map of Iraq," stated one government representative. Destruction of cultural heritage has taken place on an unprecedented scale under ISIL, which has pursued a relentless programme of destruction of heritage and holy sites, places of worship, museums, libraries and historic archives. It has engaged in widespread looting of antiquities for sale on the international markets. The Director General of the United Nations Educational, Scientific and Cultural Organization denounced the destruction as constituting a strategy of cultural cleansing.[17] Rebuilding and restoring many damaged or destroyed cultural and religious buildings and sites will be an essential step towards recovery for many ethnic and religious communities.

60. While the destruction of specific cultural sites has been evident, the conflict itself has had a massive, destructive impact on whole cities and towns of deep historical, cultural and social significance to some ethnic or religious groups. One Yazidi community representative stated of Sinjar: "If liberation means total destruction, it means the end of our existence here. People are going to migrate. What is there to come back to?" This was a sentiment echoed by Shabak representatives and others, who conveyed a deep sense of loss of much more than mere buildings and infrastructure, but rather loss of their entire cultural and historical heritage.

D. Genocide: the case against the Islamic State in Iraq and the Levant

61. In its report to the Human Rights Council dated 27 March 2015, following its investigations, OHCHR reported on "reliable information about acts of violence perpetrated against civilians because of their affiliation or perceived affiliation to an ethnic or religious group". It concluded that "some of those incidents may constitute genocide. Other incidents may amount to crimes against humanity and war crimes. Ethnic and religious groups targeted by ISIL include Yazidis, Christians, Turkmen, Sabea-Mandeans, Kaka'e, Kurds and Shia" (see A/HRC/28/18, para. 16). Among the crimes that may have been committed by ISIL was "genocide by killing, causing serious bodily or mental harm and forced transfer of children, as part of a manifest pattern of similar conduct aimed at the destruction of a particular group. Information gathered strongly suggests that ISIL may have perpetrated these crimes against the Yazidi population" (*ibid.*, para. 76).

62. While further detailed investigation is required, information provided to the Special Rapporteur, including public videos and statements by ISIL itself, strongly supports allegations that the threshold required for a finding of genocide has been surpassed in the case of the Yazidis. The intention to destroy the Yazidi group in whole or in part can be inferred from the deliberate and systematic targeting of members of that community, including for execution or forced conversion. Investigations should continue into whether genocide, war crimes or crimes against humanity may also have been committed against other ethnic or religious communities who claim that atrocities were committed against them.

[17] See http://en.unesco.org/news/destruction-hatra-marks-turning-point-cultural-cleansing-underway-iraq-says-heads-unesco-and-1

63. The true number of those murdered by ISIL because of their ethnicity or religion remains unclear. The Special Rapporteur was informed about more than 20 alleged mass graves, many of which remain within territory controlled by ISIL. The Government and the international community must take all possible steps to protect and preserve these sites so that forensic research can be conducted at the earliest opportunity. This will allow victims to be identified and serve as essential evidence for future criminal proceedings.

64. Iraq has not yet acceded to the Rome Statute of the International Criminal Court, and the Special Rapporteur urges it to do so at the earliest opportunity. Iraq could request ad hoc jurisdiction over the claims of mass atrocity crimes. The Court should give consideration to opening preliminary investigations. In the meantime, the Court should initiate proceedings against those who are nationals of States that are parties to the Rome Statute. It is vital to maintain documentation and evidence must be protected from damage or destruction. The efforts of the Kurdistan Regional Government in this regard through the establishment of specialized committees are welcome and must be supported.

VI. Essential steps for rebuilding a future for ethnic and religious communities

A. Return and rehabilitation

65. The return of displaced ethnic and religious communities to their historic homelands and territories in a safe, voluntary and supported manner is an essential element of a guaranteed future in Iraq. These communities have deep and long-standing attachments to their homelands, established over generations. Any political, infrastructural, security, economic or other barriers to the safe and dignified return of communities to their home regions must be addressed so that return can take place at the earliest opportunity. The involuntary relocation or resettlement of such communities in alternative locations could constitute another setback to their continuing sense of belonging in Iraq and should be considered as a last resort for those who choose not to return to their home areas.

66. Return to their places of origin alone, however, does not constitute an appropriate and durable solution for these communities. That can be achieved only with long-term support, investment and development initiatives to assist communities to rebuild homes, infrastructure and cultural heritage sites, re-establish livelihoods and return to normal functioning following the trauma of displacement. Development initiatives by the Government and national and international development partners should be targeted at affected ethnic and minority communities.

67. Where communities have suffered violence, including by neighbouring communities, they will also require long-term and dedicated security and community reconciliation programmes. Voicing concerns over the lack of security, a member of the Yazidi community said: "Even if we return home, Arab villages are 3 km away. We feel vulnerable because when ISIL came our Arab neighbours joined them and attacked us. How can we change the mentality of the people who live near or with us?"

B. National reconciliation

68. Strengthening an inclusive sense of Iraqi national identity and confronting sectarianism are essential to future peace, stability and social cohesion, which has been fragmented by conflict and the historic marginalization of some groups. Some minority representatives, including the Yazidis, called for the strengthening of a national

reconciliation process in which minorities were fully included. Some minority representatives called for a ministry to be established with a mandate dedicated to ethnic and religious community issues that would take the lead in policy and programme measures, including affirmative action measures such as those aimed at increasing minority participation in political life.

69. Trust needs to be rebuilt between various communities, and between the population and the Federal Government, to ensure social cohesion and sustainable, peaceful coexistence. Representatives of numerous ethnic and religious groups expressed their deep frustration, anger and despair at their present situation. They frequently stated that they had lost all trust in national institutions and protection measures, which had failed them in the past and in which they had no confidence for the future. Their perception is that Government is not genuinely concerned about protecting their rights.

70. Minorities highlighted that lack of accountability increased the likelihood of further atrocities. For communities to recover and begin to regain trust in their Government and the rule of law, a process of truth, justice and reconciliation is required and legal remedies and reparations put in place, including restitution or reconstruction of property, compensation of victims, prosecution of those accused of crimes and psychosocial support for affected persons. In this regard, customary and traditional justice processes should also be considered alongside legal and court proceedings.

71. Education is a vital component in creating understanding and acceptance of diversity for the next generation. Minorities noted the absence of education on ethnic and religious diversity and of positive portrayals of minority communities. They stressed that education curriculums should be revised to provide education in citizenship and peaceful coexistence. Equally, human rights education would contribute to promoting acceptance and non-discrimination. Education and training must extend throughout Iraqi public institutions to ensure that public officials, the judiciary and the security forces are trained in human rights, including minority rights.

72. The establishment of an Iraqi security force that truly reflects the diversity of the society and includes members of all communities was frequently stressed as an important step forward, increasing trust in law enforcement in general and ending the trend of the formulation of militias along ethnic and religious lines. The draft national guard law currently under consideration should help if it conforms fully to international standards. The possibility of retaliation and retribution against some groups, including Sunni groups following the liberation or future liberation of territories such as Mosul, is a real threat. Everything possible must be done to ensure the protection of civilians in all circumstances and to ensure that the brutality of ISIL is not replicated by others, including ethnic- or religious-based popular mobilization forces.

C. Political, economic and social participation

73. Smaller ethnic and religious groups have very limited political means to express their will or concerns. Community representatives commonly stated that they lacked adequate political participation at all levels of public affairs, from local to national, and that current electoral laws made it difficult for minority ethnic groups to achieve political representation in proportion to their presence in society. They stressed that improved political participation was essential for them to raise their issues and concerns and as part of a longer-term social cohesion project. One representative stated: "To date, minorities are absent from decision-making." Another described efforts to block or remove Christians and other minorities from decision-making positions in Ninewa.

74. The national Parliament reserves only 8 of its 328 seats for minorities, and these are available only for some communities (Christians have 5 seats and Sabea-Mandeans, Shabaks and Yazidis have 1 seat each). Turkmen, the third-largest ethnic group in Iraq, do not have any reserved seats in the Iraqi Parliament. The Government noted, however, that Turkmen are well represented in political blocs in the Parliament and hold numerous government posts. Following the establishment of the Kurdistan Region and the adoption of the 2005 Constitution, which recognizes Iraq as a federal State, representatives of some minority groups, including Turkmen and Yazidis, called for greater political autonomy and control over their affairs in their regions as the only way to ensure protection of their rights.

75. Minorities have long faced discrimination and exclusion from certain labour markets, including employment in government and public sector posts. Such exclusion must be addressed, including through implementation of affirmative action policies where necessary, to ensure that Iraqi institutions better reflect the diversity within society. The Special Rapporteur stated her concern that the gains made by women in Iraq, including the participation of minority women, in recent decades was being deeply eroded by the current crisis and displacement of communities. The Special Rapporteur is especially worried about girls' access to education, which has reportedly decreased.

D. Disaggregated data

76. The question of the relative numerical size of some populations is politically sensitive in Iraq and has political and resource implications. It is nevertheless essential that accurate data be collected and recorded as soon as possible. Estimates suggest that the population may have doubled since the last full census was conducted in 1987.[16] The currently available data on population numbers of the different ethnic and religious communities are grossly inaccurate, owing to the events that have taken place since the last census. These events have led to large numbers of people relocating or leaving the country as well as civilian and combatant deaths numbering in the hundreds of thousands.[17] Consequently, the existing census data should not be relied upon, as they offer only a poor estimate of the size and location of minority communities in Iraq. While a new census is in the planning phase, it is unlikely to be held in the near future in the light of the ongoing crisis.

77. Before a full census becomes possible, it is of the upmost importance that comprehensive mapping take place to provide a better understanding of the demographic composition of the various regions of the country and the trends of displacement and migration, and to have a proper assessment of the socioeconomic conditions of the various groups. This will enable targeted humanitarian, human rights and development programmes to be designed. Such mapping could be carried out or monitored by an independent organization, with the full involvement of minority community members. Disaggregated data will help to ensure that ethnic and religious groups benefit from assistance and, where appropriate, affirmative action programmes.

[16] A partial census was conducted in 1997, which excluded the three Kurdish provinces of Dohuk, Erbil and Sulaimaniya.

[17] Some estimates put the total civilian death toll at more than 174,000, with the total number of violent deaths, including of combatants, at up to 242,000 since 2003. See Iraq Body Count, available from www.iraqbodycount.org.

VII. Conclusions and recommendations

A. Conclusions

78. Ethnic and religious communities are facing an unprecedented crisis that may threaten their continued existence in Iraq. Atrocities committed by ISIL since 2014, which have targeted minority groups in particular, constitute the most recent and brutal attack on those groups. The impact of violence and displacement on communities, including but not limited to the Yazidis, has been devastating. Overwhelming evidence supports claims of crimes against humanity, war crimes and genocide that must be fully investigated and appropriately addressed by the Government and the international community. Under these circumstances, deprived of homes, loved ones and livelihoods, community leaders and members feel despair and loss of hope in a future in Iraq. Many have left Iraq, feeling targeted, marginalized and unprotected and having lost trust in the authorities' capacity to protect their human rights. That hope and trust must be restored.

79. The challenges facing minorities did not begin with ISIL and will not end with its defeat alone. They go much deeper in Iraqi society, and solutions must therefore also be far reaching and confront long-standing issues of discrimination, exclusion and marginalization. There must be an intensification of efforts by the Government and real political and societal commitment to the preservation of all ethnic and religious communities and guarantees of their human rights and equality. To avoid a further exodus of minorities, such a commitment must also be delivered in practice through protection measures and legal, policy and institutional frameworks to ensure the human rights of all ethnic and religious communities, including their minority rights.

80. The primary responsibility for the protection of all its citizens lies with the Government of Iraq, which must do more and commit the necessary attention and resources. However, in the light of the economic crisis affecting Iraq and its commitment to combating ISIL, the donor community is also urged to continue and enhance its generous support to match the massive needs for humanitarian, stabilization and development assistance. All international partners should give greater consideration to the situations and needs of vulnerable ethnic and religious communities and, in full consultation with those communities, target assistance and recovery programmes specifically for them. These programmes must go beyond humanitarian aid to encompass projects to achieve sustainable solutions, development and community reconciliation, allowing minorities to live in safety and dignity.

81. The Special Rapporteur sought positive elements that offered hope for the future of minorities and social cohesion across communities. She heard about communities helping and supporting each other, and about an Iraqi society that had historically been able to recover even after atrocities had been committed. The forces of tolerance and understanding that have allowed diverse communities to live together for generations must now be cultivated once again as the bedrock of a future inclusive Iraqi society. Political and community leaders must lead efforts to achieve inter-community reconciliation. The views of all, including women and youth, must be heard and everyone must participate in shaping the future.

B. Recommendations

82. The Special Rapporteur recommends that the Federal Government and the Kurdistan Regional Government (where applicable) should:

(a) In close consultation with minority communities, establish a comprehensive legal and policy framework for the protection of minorities, including the adoption of a law that is in conformity with the binding international human rights law to which Iraq is a party and the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities;

(b) Establish an institutional framework dedicated to minorities, equality and diverse ethnic and religious groups, including the establishment of a ministry for ethnic and religious communities or equivalent body with an appropriate mandate, status, capacity and budget;

(c) Ensure that no law or policy, current or future, directly or indirectly discriminates against any person or group on the basis of their national, ethnic, religious or linguistic identity;

(d) Ensure the political participation of underrepresented communities, including minority women, at all levels. All ethnic and religious communities should have guaranteed, reserved seats in Parliament and local government structures;

(e) Undertake a population census at the earliest opportunity following the end of the conflict with ISIL and the return or resettlement of internally displaced and refugee communities;

(f) Ensure that internally displaced persons from ethnic or religious communities are treated in conformity with international standards, including the Guiding Principles on Internal Displacement. Solutions for internally displaced persons should be based on consultation and sensitive to their cultural and religious identities and community preferences;

(g) Ensure equality in access to humanitarian assistance for minority ethnic and religious communities affected by conflict that may be disproportionately impacted owing to targeted violence and discrimination;

(h) Ensure freedom of movement without discrimination, particularly for those seeking safety who may be at risk. Any restrictions or detentions on the grounds of security must be in accordance with the law and due process;

(i) Take essential measures to re-establish and build trust among minority communities so that they are considered equal citizens and components of Iraqi society, alongside all other ethnic and religious communities;

(j) Consider for some groups, in consultation with the affected communities, measures for local political and cultural autonomy over their territories and affairs in regions in which they constitute a majority or a significant percentage of the population;

(k) Establish overdue protection measures for ethnic and religious communities that remain at risk of violence either in their places of origin or in displacement locations, in close consultation with community members;

(l) Ensure representation of minorities in security forces, particularly in areas of high and historic minority presence, as well as appropriate training of all security forces in issues related to minorities;

(m) include atrocity crimes in national legislation, and record and investigate, to the fullest extent possible, all crimes committed against ethnic and religious communities, including war crimes, crimes against humanity, ethnic cleansing and possible acts of genocide. Evidence, including mass graves, must be protected;

(n) **Accede to the Rome Statute of the International Criminal Court and grant domestic jurisdiction over any of the crimes enumerated in the preceding paragraph that may have been committed in Iraq;**

(o) **Use all means available to ensure that Yazidis and others who were held captive by ISIL are rescued and receive medical and psychosocial care appropriate to their needs;**

(p) **Implement a strategy to support, with appropriate budgets, the return to places of origin in a voluntary, secure and dignified manner and with appropriate support and assistance, including for those who have suffered violence from neighbouring communities;**

(q) **Respect the freedom to choose not to return to places of origin because of security or other factors and provide alternative durable solutions, including local integration or supported resettlement;**

(r) **Ensure that all victims of the most serious crimes and displacement receive reparations, and begin a programme for the reconstruction of homes and infrastructure in minority villages, towns and other locations, in close consultation with affected communities;**

(s) **Rebuild and restore damaged or destroyed cultural and religious buildings, places of worship and other significant cultural sites;**

(t) **Ensure that the activities of ethnically or religiously affiliated popular mobilization units are in accordance with international humanitarian and human rights law and standards, including their treatment of all ethnic and religious communities with which they may interact, and that their command and control fall under the authority of the Government of Iraq and its security forces;**

(u) **Ensure that minorities are fully involved in peacebuilding and transitional justice processes aimed at creating stability and avoiding future crises;**

(v) **Impose no undue restrictions on the return of communities to disputed regions;**

(w) **Intensify efforts to promote national reconciliation to build trust and bridges between communities, and ensure that minorities are fully included in such efforts; in this regard, implement curriculum reform to mainstream tolerance and human rights principles;**

(x) **Strengthen the role and capacity of national human rights institutions and civil society to work on minority issues and in support of minority communities.**

83. **The Special Rapporteur recommends that the international community should:**

(a) **Fully investigate allegations of genocide, war crimes or crimes against humanity perpetrated against the Yazidis and, potentially, other ethnic and religious communities, and act in accordance with commitments under international humanitarian and human rights law to protect civilians and prosecute anyone suspected of such crimes;**

(b) **Undertake all possible measures to secure the release of those persons, including women and children, who remain captives of ISIL and at risk of violence or death;**

(c) **Maintain and enhance essential humanitarian and development funding, assistance and support for communities and regions affected by conflict while ensuring equal access to assistance for all affected populations;**

(d) **Step up the engagement of development partners to assist in transition from the emergency response phase to recovery and reconstruction, including activities aimed at reconciliation and social cohesion, compensation and restorative justice measures, and ensuring durable solutions for minority ethnic and religious communities.**